Fisheries and Oceans Canada
Pêches et Océans Canada

AN ALLOCATION POLICY

FOR PACIFIC SALMON

A New Direction:

The Fourth in a Series of Papers from Fisheries and Oceans Canada

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OVERVIEW

June 19, 1998 was a turning point for Fisheries and Oceans Canada in the Pacific Region. On that date, the Minister of Fisheries and Oceans announced a comprehensive Coho Recovery Plan to protect endangered species. The plan involved new measures in three broad areas:

- dramatically increased efforts in protecting and rebuilding salmon habitat;
- restructuring the salmon fishery by moving to selective harvesting, diversifying fishing opportunities, and further reducing the commercial fleet; and
- assistance to people and communities to adapt to the changing fishery.

In total, these measures represent a new investment of $400 million by the Government of Canada.

The Coho Recovery Plan dealt with much more than an immediate conservation crisis. It represented an important step towards restructuring the fishery to address a number of fundamental problems. In a report to the federal and provincial governments, the Job Protection Commissioner of the Province of British Columbia put the challenge facing the Pacific salmon fishery in context. He outlined the pressures making fundamental change necessary for the survival of commercial fishing. He pointed to plunging world prices, declining catch rates and over-capacity that made the fleet's outlook uncertain – unless there was change. He urged the industry to move from volume to value as its focus for the future.

Based on the advice from the Job Protection Commissioner and input received from stakeholders, Fisheries and Oceans Canada launched a new voluntary salmon licence retirement program to reduce the number of licences in the Pacific commercial salmon fleet. This initiative will reduce capacity, help achieve selective fishing objectives and improve industry viability.

In addition, to establish a long-term foundation for salmon management, Fisheries and Oceans Canada released the paper *A New Direction for Canada's Pacific Salmon Fisheries* on October 14, 1998. This paper launched a process that will clarify the future direction for the management of Pacific salmon by establishing clear principles and articulating operational policies. This process included a commitment to a more transparent and open process for allocating the harvestable surpluses of salmon among the different users of the resource.

The issue of allocation has been the subject of debate for a number of years and five independent studies on various aspects of the issue have been undertaken. Representatives from all user groups have called for greater predictability in allocation decisions, but have been unable to reach consensus on sharing of the resource. In fact, all independent advisors have commented on this fact.

In December 1998, the department released a second discussion paper entitled *An Allocation Framework for Pacific Salmon*. This paper proposed a series of seven principles to guide decisions around the allocation of harvestable surpluses in the salmon fishery. The present paper, following many months of consultation around these earlier draft principles, represents an important policy statement by the department.

The question will be asked, "What is new in this paper and what does it mean for fishers?"

This policy represents a significant step towards providing certainty and fairness by establishing clear priorities for allocation between fishery sectors and within the commercial fishery between gear types. The policy is expected to guide salmon allocation decisions into the foreseeable future.

The first salmon allocation principle confirms that conservation of Pacific salmon stocks is the primary objective and will take precedence in managing the resource. After conservation requirements are secured, the framework outlines a reasonable, balanced approach to the allocation issues:

- It provides for the priority of First Nation's food, social and ceremonial requirements and rights that may be defined in treaties. This paper does not presume to define the nature or scope of negotiations in treaties.
- It gives, after First Nations priorities, a priority to the recreational sector for chinook and coho salmon and provides for more predictable recreational fishing opportunities for sockeye, pink and chum salmon.
- It confirms that the commercial sector allocation of the total allowable catch of the combined recreational and commercial harvest of sockeye, pink and chum, will still be 95 per cent or higher, after the priority described above. Commercial harvest of chinook and coho will occur when abundance permits.
- It encourages selective fishing by setting aside a portion of the total available catch for commercial licence holders to test more selective harvesting gear and technology.

- It establishes that target allocations for the commercial sector will be set on a coast-wide basis by gear and may be subject to adjustments over time to account for conservation requirements, and possible changes resulting from the voluntary salmon licence retirement program.

Allocation continues to be founded on the principle that Pacific salmon belong to the people of Canada as a common property resource and must be sustainably managed by government for the benefit of present and future generations.

Interested stakeholders, First Nations, commercial and recreational fishing organizations, community representatives and the government of BC all provided input to the development of the salmon allocation policy. The Province provided valuable input to the design of the consultation process. This included facilitated workshops with representatives of the recreational and commercial fishing sectors and First Nations and other interested parties in early 1999. The workshops provided stakeholders with the opportunity to explore the discussion items identified in the framework. In addition, advice was independently sought from First Nations throughout the spring and summer of 1999. This advice was received through workshops facilitated by the BC Aboriginal Fisheries Commission and subsequent reports and meetings with individual bands and tribal groups. In addition, many bands and tribal groups provided their written comments to the department.

All views received up to April, 1999 were independently consolidated, summarised and released in a report prepared by Edwin Blewett and Associates Inc. and Timothy Taylor Consulting Services called ***"An Allocation Framework for Pacific Salmon: 1999 – 2005 – Report on Written Submissions and Workshop Discussions"***. That consultant's report, along with a letter describing the overall consultative process is available on the internet site at http://www.dfo-mpo.gc.ca/comm/english under "commercial fishing".

The guidelines incorporated into this policy document reflect a careful consideration of all the views and advice received throughout the consultation process. In developing the guidelines the most important factor was consistency with this department's conservation objective. Other factors considered include the extent of sectoral and multi-sectoral support for a particular approach, the ability to manage and deliver on the approach, the costs of the approach and consistency with other national and regional policies.

This document is intended to serve primarily as a guide for salmon resource users, interested parties and departmental staff and, as such, contains technical information. At the same time, it represents the start of a new phase, and should be viewed as a living document. Not all the questions raised by the implementation of this framework can be answered at this time.

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1.0 INTRODUCTION

The purpose of this paper is to outline a long-term salmon allocation policy. Specifically, this paper presents a series of principles for sharing harvestable surpluses of Pacific salmon among First Nations, recreational and commercial users.

Interested parties had an opportunity to provide views to the Minister and Fisheries and Oceans Canada staff in writing or by taking part in facilitated meetings. The various views expressed were carefully considered in developing this final allocation policy.

The salmon allocation policy set out in this paper will apply within the context of First Nations food, social and ceremonial requirements and treaty obligations to First Nations, as well as Canada's international obligations.

Information is presented in Section 2 on the current circumstances that are influencing Pacific salmon fisheries. Section 3 provides an overview of recent consultations on salmon allocation and independent advice provided. Section 4 describes the salmon allocation policy and incorporates guidelines to clarify these principles where appropriate. Section 5 describes the proposed role of a salmon allocation board.

2.0 A CHANGING ENVIRONMENT FOR PACIFIC SALMON FISHERIES: RECENT DEVELOPMENTS

During the 1990s, Pacific salmon fisheries experienced dramatic changes due to a variety of factors, including a shift in ocean climate conditions, significant conservation concerns, serious declines in salmon abundance, a drop in world prices for salmon and the introduction of new fisheries management approaches. The current situation is the appropriate context from which to design and implement an allocation framework for salmon.

2.1 Environmental Uncertainty

Scientists now advise that we may be facing a regime shift in the ocean - a change in ocean conditions leading to lower salmon productivity. Research indicates there are connections between long-term shifts in ocean climate conditions and harvests of salmon across the Pacific Rim. The late 1980s and early 1990s were periods of record high harvests of some species of salmon. As ocean climate conditions shift in the future, it is unlikely that these harvest levels will be repeated in the foreseeable future. Warming of the headwaters of major river systems such as the Fraser and Skeena due to climate change could also reduce fish production, particularly as some tributaries important to fish reach temperature levels which are stressful or near lethal for fish.

At present, some salmon stocks are extremely depressed. For example, under current ocean survival conditions some coho stocks are expected to decline even without a fishery, and some individual spawning populations are at high risk of biological extinction. Concerns for these stocks will affect fishing plans for at least the next six years (two coho generations).

Overall, changes in the ocean and freshwater environment have reduced catches in the fishery and made it increasingly difficult to predict future returns of salmon. For example, in 1999 the pre-season forecast for the Fraser River sockeye run, based on a 50% confidence level, was 8.2 million fish while actual returns were about 3.6 million fish. Similar unexpected low returns of salmon are anticipated for a number of years. The need to respond quickly to such unexpected low returns of the resource or unexpected low survival rates is greater than in the past. Allocations between sectors and within the commercial fishery need to reflect current resource availability and be sufficiently flexible to meet present management needs.

2.2 Changing Market Conditions

British Columbia's seafood industry is export-oriented and a price taker in world markets dominated by farmed salmon and Alaskan supply. The fishing industry is vulnerable to changes in world salmon supply or demand. Landed prices for salmon are volatile due to the increasingly competitive nature of world salmon markets.

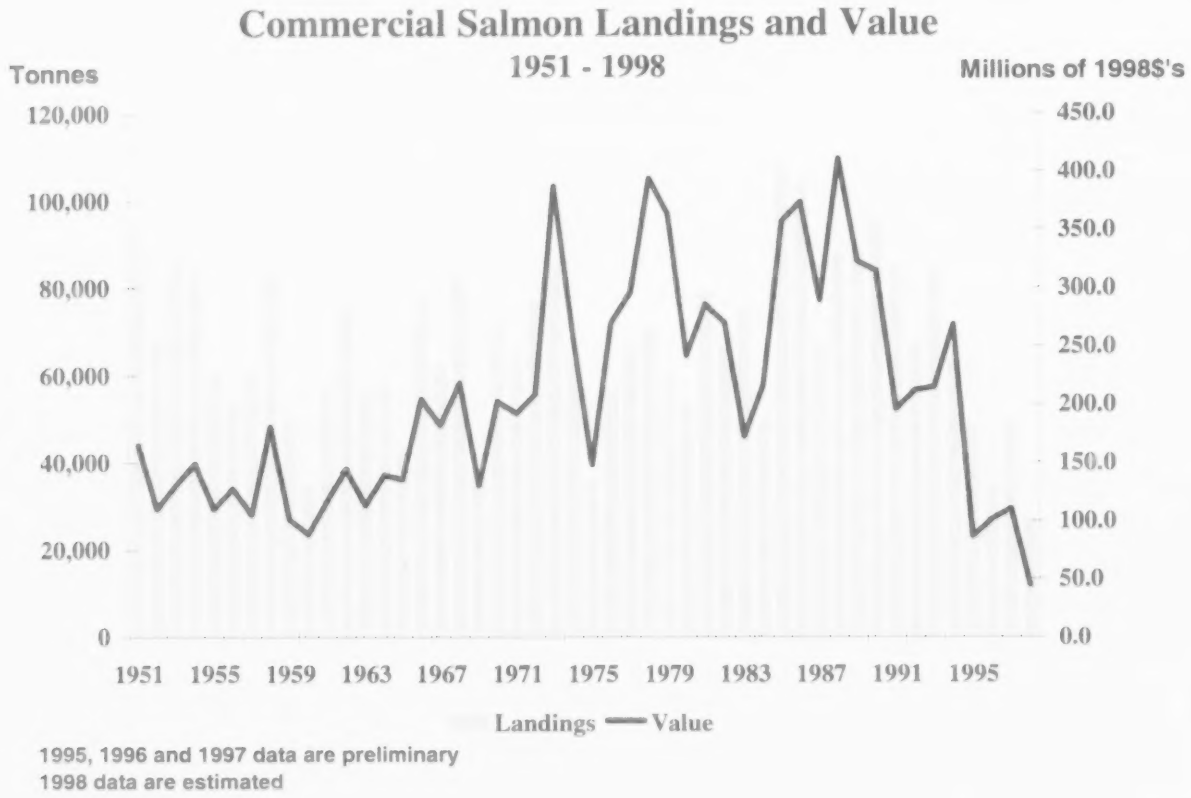
A major shift in global salmon markets began in the early 1990s. Supply increases from aquaculture and abundant wild harvests turned a seller's market into a buyer's market. Salmon prices plummeted. Figure 1 illustrates the landed prices for sockeye, chinook, and pink paid to commercial harvesters over the past two decades. After adjusting for inflation, sockeye, chinook and pink prices are all substantially lower than in the past.

Figure 1

1995, 1996 and 1997 data are preliminary

Figure 2 shows salmon catches and landed values since 1951. This figure illustrates the dramatic decline in revenues from the commercial salmon fishery. During the early 1990's, the average annual landed value of the commercial salmon fishery was just over $200 million. In contrast, since 1995 landed values have been in the order of $50 to $100 million.

Figure 2



2.3 BC Job Protection Commission Report

Fishing for Money, a report by British Columbia's Job Protection Commissioner on challenges and opportunities in the BC salmon fishery, was jointly commissioned by the Government of Canada and the Province of BC to analyze the 1997 salmon season and the challenges and opportunities facing the fishery in the future.

Highlights of the report are presented below.

Commercial Salmon Fishery

- *The last three years have seen terrible financial results for the fleet, with low catches and low prices. However, as bad and unprecedented as the 1996 and 1997 seasons were from a financial viewpoint, they would have been significantly worse in the absence of the federal fleet reduction program. (Summary Page 3)*

- *The declines reflect weak prices and the low catch level in 1997, and not the fleet reduction program. In fact, without fewer vessels under the Mifflin Plan, operating income would have been $27 million lower and pre-tax income $30 million lower in 1997. (Pages 4 -7)*

The report notes that the salmon fishery faces a gloomy outlook if there are no changes in business practices.

- *Under all scenarios, the short-term (1998 to 2000) financial outlook for the commercial fleet is gloomy, with massive losses anticipated due to low catch levels. Similarly, bleak prospects face the processing industry, which has seen near-zero profits on average over the last two decades. (Summary Page 4)*

- *It appears that another fleet reduction - in the order of 900 vessels and 1,100 licences under the Mid-Low catch projection, and 1,500 vessels and 1,900 licences under the Low catch projection, or some other significant change to fisheries management or business practices can improve long-term viability of the sector. (Summary Page 4)*

- *Of the three factors that can solve the fleet's financial problems - volume, prices, and fleet size - only the third can be realistically influenced by government. The other two factors are largely at the whim of Mother Nature or world markets. (Page 5-6)*

- *The industry as we know it today will not survive unless fundamental change is embraced and implemented... (Summary Page 4)*

Recreational Salmon Fishery

- *Tidal anglers spent an estimated $485 million on fishing in 1997, broken down as follows: $81 million on fishing lodges, $26 million on fishing charters, $190 million on boats and other equipment, and $187 million on other goods and services. (Summary Page 5)*

- *Industry revenues of $485 million in 1997 were 21 per cent less than the $611 million revenue base of 1994 for several reasons, including declines in salmon availability, the effects of fishing regulations and weakness in the BC economy. (Pages 8-4)*

  Regulatory uncertainty is the number one factor affecting business prospects in the recreational fishery.

Summary of Job Protection Commission (JPC) Findings

It is clear from the findings of the JPC study that the commercial fishery has experienced a decline in financial performance since the mid-1990s and that it faces a gloomy outlook in the absence of significant changes.

The contribution of the recreational sector to the BC economy is highlighted in the JPC report. The consequences of regulatory uncertainty is identified as the number one factor affecting business prospects in the recreational fishery.

It is important to consider these factors in developing an allocation policy for salmon.

2.4 Pacific Fisheries Adjustment and Restructuring

On June 19th 1998, the Minister of Fisheries and Oceans Canada announced a commitment of $400 million to rebuild the resource, restructure the fishery and assist people and communities to adjust to the changing fishery.

The Canadian Fisheries Adjustment and Restructuring measures are designed to address the ongoing conservation concerns in the Pacific salmon fishery and to ease the transition to a new management approach. Funding has been allocated to restructure the commercial fleet through licence retirement, to rebuild and enhance habitat, to help people and communities adjust, and to assist all sectors (Aboriginal, commercial and recreational) to adopt more selective fishing techniques.

2.5 A New Direction for Canada's Pacific Salmon Fisheries

On October 14th 1998, the Minister of Fisheries and Oceans Canada released *A New Direction for Canada's Pacific Salmon Fishery* which outlined guiding principles relating to conservation, sustainable use and improved decision making.

The New Direction paper describes a new conservation ethic for Pacific salmon resources and their habitat. This foundation will guide all future decision-making. Fish and habitat must be protected from irreversible depletion and the diversity of species conserved. Sound scientific advice is critical to such conservation-based fisheries and habitat management decisions.

Among other things, the New Direction paper affirms that management of Pacific salmon stocks will be guided by:

- conservation as the primary objective;
- a precautionary, risk-averse approach;
- the goal of achieving a net gain in productive capacity for salmon habitat in British Columbia;
- an ecological approach that takes into account complex interactions between the different species;
- a commitment that the long-term productivity of the resource will not be compromised by short-term considerations – tradeoffs between current harvest benefits and long term stock well-being will be resolved in favour of the long term; and,
- adoption of selective methods to harvest salmon by all sectors – First Nations, recreational and commercial harvesters.

The New Direction will have important impacts on management policies respecting wild spawner escapement, salmon enhancement, harvest management and other related areas. In short, it will over time significantly influence the size of the harvest, the way that the fishery operates and the location of fishing.

2.6 Transition to Selective Fishing

The New Direction paper highlights the importance of conservation and sustainable use objectives, reflecting a more conservative management approach than in the past. This is necessary to conserve and protect the resource given environmental uncertainty and the overall state of the resource and its habitat. Harvest rates will be lower than in the past and the resulting harvest will likely be lower for at least the foreseeable future.

The introduction of selective fishing is important in this context. Harvest rates and harvest levels in outside fishing areas, more distant from spawning rivers and streams, will be particularly affected. In these areas, there are a larger number of different stocks and stock groupings mixed together in the fishery, and uncertainties in both run size and survival rates are greatest. Allocation policy will need to be flexible in order to facilitate the shift over time to more harvesting in terminal areas. For many First Nations fisheries the move to selective gear is, in part, a return to fishing methods used before the modern commercial fishing industry, and has a strong cultural component.

On May 17, 1999 the Minister of Fisheries and Oceans Canada released *Selective Fishing in Canada's Pacific Fisheries*. This paper provides the policy basis for the continued implementation of selective fishing in Pacific fisheries, setting out an objective and a series of six strategies. The overriding objective of selective fishing is clear. All Pacific fisheries where by-catch is an issue will become significantly more selective in harvesting fish. In fisheries where selective harvesting standards are not met, and by-catches remain a problem, fishing opportunities will be curtailed. The target for meeting this selective fishing objective is 2001 for salmon fisheries.

2.7 Negotiation of Modern Day Treaties in British Columbia

With the final stages of the Nisga'a treaty, and the continued progression of the British Columbia Treaty Process, negotiations related to fish, fishing arrangements, fisheries management and other matters are under discussion at most active treaty negotiations in British Columbia. Outcomes of these negotiations will set out the access to fisheries resources to be provided to the First Nation under the treaty. Canada's interests at treaty negotiations include conservation of the resource and the certainty and stability in fisheries in British Columbia. A number of concerns with the allocation policy have been raised by First Nations. These concerns are discussed in section 3.5 of this paper.

3.0 CONSULTATION AND INDEPENDENT ADVICE

Over the past two decades, the issue of salmon aliocation among First Nations, recreational and commercial user groups has become increasingly controversial.

By the mid-1990s, there was growing recognition that changes in the management of the commercial salmon fisheries were required. Expert reports, including the Fraser River Sockeye Public Review Board report, pointed to the need for a substantial reduction in the size of the commercial fishing fleet to address worsening conservation and economic problems. In 1995, a Roundtable on Pacific Fisheries Policy was convened which identified harvest allocation as an important constraint to fleet restructuring. Commercial industry participants expressed serious reservations about participating in fleet reduction programs aimed at conservation and industry viability objectives, without assurance that their share of the harvest would be maintained.

While it was noted that catch shares could not be guaranteed to each sector in perpetuity, it was recognized that more certainty over allocation arrangements was required.

Since 1995, five consultation processes have been conducted to review options to resolve allocation issues. The areas studied included allocation within the commercial sector (intrasectoral), allocation between the commercial and recreational sectors (intersectoral) and a review of the Aboriginal Pilot Sales Program.

It should be noted that the consultations referred to above and described below were independent of the bilateral consultations between Fisheries and Oceans Canada and First Nations about food, social and ceremonial fisheries. These fisheries remain a matter of arrangements between Fisheries and Oceans Canada and the First Nations and the access to such fisheries will continue be the subject of negotiations under the treaty process.

The following consultation processes have taken place since 1995:

Dr. Art May	Intersectoral Allocation	Jan/96 to Dec/96
Mr. James Matkin	AFS Pilot Sales Program	Dec/96 to Feb/97
Mr. Stephen Kelleher	Commercial Allocation	Mar/96 to June/97
Mr. Stephen Kelleher	Commercial Allocation	Oct/97 to Apr/98
Mr. Samuel Toy	Intersectoral Allocation	Oct/97 to Mar/98

This section outlines some of the issues addressed by independent advisors and the advice provided[1].

3.1 Independent Advice on Intersectoral Allocation

In 1996, Dr. Art May was asked to provide advice on establishing initial allocations for each sector, rules and mechanisms for changing those allocations over time and options for accommodating those displaced or disrupted by changes in allocations.

Dr. May recommended that initial salmon allocations be based on catches during the early 1990's. Further, Dr. May recommended that the recreational sector should have priority over directed commercial fisheries for chinook and coho when quantities of these salmon are low. Dr. May was persuaded that a fish caught in the recreational fishery is worth more to the British Columbia economy than the same fish caught in the commercial sector. This recommendation was conditional on the recreational sector compensating commercial licence holders for shifts in allocation from the commercial to the recreational sector. Compensation was to be accomplished by the recreational sector funding temporary lease of commercial licences or permanent retirement of an appropriate number of commercial licences.

In 1997, Mr. Samuel Toy was asked to consult with stakeholders on the implementation of Dr. May's recommendations.

Consistent with the Canada – British Columbia Agreement on Management of Pacific Salmon Fishery Issues, government officials jointly provided Mr. Toy a series of principles to guide the consultative process design, a summary of stakeholder interests related to intersectoral allocation and specific information concerning existing fishing organizations, as well as federal and provincial fishery advisory groups.

During Mr. Toy's consultations, representatives of some recreational and commercial organizations agreed on an approach to chinook and coho allocation. If abundance was not adequate to allow both commercial and recreational fisheries to proceed, the agreed approach meant that the recreational fishery would be managed on the basis of reasonable limits and permitted to remain open after the directed commercial fishery ceased, and the commercial fishery would receive a minimum by-catch allowance to enable fisheries on other target species. Their agreement also

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[1] Advisors, pursuant to their terms of reference, did not address issues associated with First Nations priority access to salmon.

called for the establishment of initial allocations based on an area by area examination of catches during 1991-1994, an accounting framework and government responsibility to fund all changes in allocation. Mr. Toy endorsed this agreement and included it as one of his key recommendations.

In addition, both Dr. May and Mr. Toy recommended processes to provide ongoing external advice on allocation issues. Dr. May suggested that an independent tribunal connected to local organizations be established to manage and implement allocation policy, while Mr. Toy recommended a series of regional management boards linked to a province-wide board.

3.2 Intersectoral Allocation in the Current Context

The work of Dr. Art May and Mr. Samuel Toy on salmon allocation has done much to clarify the issues and provide numerous useful suggestions that are incorporated into the allocation policy. However, circumstances have changed considerably during the past several years and there are several operational and legal concerns associated with aspects of their recommendations.

First, the degree of uncertainty about future catch levels has increased dramatically. Salmon catches during the early 1990's were relatively high and much more stable than today. As a result, using the early 1990's as a basis for future allocations would fail to reflect current resource availability.

Second, recent conservation concerns have increased the need to respond quickly to unexpectedly low returns of the resource and declining survival rates. Allocations between sectors and within the commercial sector need to be sufficiently flexible to reflect these realities. A requirement to deliver fixed allocations of the resource to different user groups may compromise the ability to respond appropriately to conservation concerns when they arise.

Third, the ongoing administration of fixed allocation arrangements would be extremely complex and costly. Continuing judgements would be required to determine whether the harvesting shifts are temporary or permanent. Mechanisms would be required to facilitate the ongoing funding of allocation shifts between sectors. All of this would be required against the background of a fishery where overall abundance is typically volatile and subject to large fluctuations from year to year and cycle to cycle.

Finally, a commitment by government to fund all future allocation transfers between sectors would be inconsistent with the common property nature of the Pacific salmon resource. Government funding of allocation transfers between sectors would effectively concede a proprietary interest to a share of the resource to each sector. As well, it would commit Canadian taxpayers to an open-ended and uncertain financial burden.

Biological and environmental factors beyond the control of government can and will affect harvest levels and allocation shares. In this context, the government cannot, on behalf of all Canadians, guarantee shares with an undertaking to compensate for any share changes.

3.3 Independent Advice on Commercial Allocation

Mr. Stephen Kelleher consulted extensively with the commercial salmon sector in 1997 and 1998. In 1998, Mr. Kelleher recommended a long-term allocation framework for different gear types (gillnet, troll and seine) within the commercial fleet. Mr. Kelleher proposed a specific coast-wide allocation arrangement among all three gear types in the commercial fishery that encompassed all five species of Pacific salmon. In addition, he proposed specific procedures for dealing with any failure to achieve target allocations and for adjusting target allocations over time.

A number of Mr. Kelleher's recommendations were reflected in interim commercial sector arrangements for the 1998 salmon fishing season.

3.4 Independent Advice on the AFS Pilot Sales Program

Fisheries and Oceans authorizes the harvest and sale of fish by certain First Nations under the Aboriginal Fisheries Strategy (AFS) Pilot Sales Program. This program was introduced in 1992 as one component of the AFS.

In December 1996, Mr. James Matkin was asked to oversee a fact-finding review of the AFS Pilot Sales Program. The review sought ways of reducing the conflict and uncertainty associated with the program and attaining more stability. Mr. Matkin recommended a continuation of the status quo in the short-term. Over the longer term, he concluded that combining pilot sales and the commercial fishery into one system in which the current AFS Pilot Sales Program would be treated like a "fourth gear type" offered the best chance for future consensus and the conservation of the resource. It should be noted that this review was independent of the bilateral consultations with First Nations about food, social and ceremonial fisheries.

3.5 Consultation on the Allocation Framework of December 1998

Following the release of *An Allocation Framework for Pacific Salmon* in December 1998, extensive consultations were held with First Nations, commercial and recreational fishing organizations, community representatives and the government of BC. The Province of British Columbia provided valuable input to the design of the public consultation process. This included three facilitated workshops convened in Richmond, Nanaimo and Prince Rupert with representatives of the recreational and commercial fishing sectors, and First Nations and other interested parties in early 1999. The workshops provided stakeholders and First Nations with the opportunity to explore the discussion items identified in the framework.

All views received up to April, 1999 were independently consolidated and summarized and then released in a report prepared by Edwin Blewett and Associates Inc. and Timothy Taylor Consulting Services called ***An Allocation Framework for Pacific Salmon: 1999 – 2005 – Report on Written Submissions and Workshop Discussions***. That consultant's report, along with a letter describing the overall consultative process is available on the internet site at http://www.dfo-mpo.gc.ca/comm/english under commercial fishing. All of this input has been carefully considered in developing the final allocation policy.

In addition, separate regional workshops with First Nations were facilitated by the BC Aboriginal Fisheries Commission. The Commission then provided a report to the department summarizing First Nations views. In response to recommendations in this report, further bilateral consultations took place with interested individual First Nations groups in the north and central coasts, south coast and the Fraser River.

A number of particular concerns were raised in the consultations with First Nations which have been addressed throughout this policy:

- A strong concern was expressed by the First Nations consulted with principle 3 "Common Property". The issue here centred around the implications for aboriginal rights based fisheries and potential treaty benefits and the strongly held view of First Nations that they are owners of the resource.

To address this issue, the policy now clarifies that common property ownership does not affect the priority of access provided to First Nations to address their food, social and ceremonial needs, other rights based fisheries or obligations under treaty.

- First Nations raised concerns about the proposed priority of test fisheries over aboriginal rights based fisheries. Particular concerns were expressed over the disposition of fish harvested in test fisheries where First Nations food, social and ceremonial fisheries are closed for conservation reasons.

To address this issue, the policy now clarifies that priority will only be accorded to test fisheries for the minimum harvest required to determine the timing and general health of salmon stocks and to identify potential harvest levels. In addition, it is recognized that consultation with First Nations will be required to implement this element of the policy.

- First Nations raised concerns that the proposed recreational priority to chinook and coho salmon may affect their food, social and ceremonial fisheries or potential commercial fisheries to which a right may be proven.

To address this issue, the policy now clarifies that the recreational priority will only apply after the First Nations priority (expressed in Principle 2) has been addressed.

- First Nations expressed an over-riding concern that establishing an allocation policy in advance of treaty settlements would prejudice ongoing and future treaty negotiations in the province.

To address this issue, it is now clarified that the policy will not constrain the scope of treaty negotiations and that fisheries will be managed in accordance with the provisions of treaty settlements.

- First Nations also expressed a number of other concerns over the implications for rights based fisheries of an equal priority between pilot sales and commercial fishing.

The department recognises that there will be a challenge in differentiating the pilot sales and food, social and ceremonial portions of some Aboriginal Fisheries Strategy agreements. This will require sensitivity and co-operation between the parties. However, the department's position is that pilot sales allocations are authorised as a matter of Ministerial discretion as are commercial fishing allocations. Pilot sales allocations do not recognize a right to the resource.

4.0 SALMON ALLOCATION FRAMEWORK

All the information summarized above has been considered in preparing this salmon allocation policy. The intent is to provide greater clarity on how harvestable surpluses of Pacific salmon will be allocated among various user groups. The policy, which includes seven principles, is intended to guide salmon allocation decisions by the department's managers and provide stakeholders with more certainty and predictability in the approaches that will be used.

Scientists need accurate, comprehensive and timely catch data to provide sound scientific advice. A review of catch monitoring systems for all sectors is currently underway and will need to be further developed in order to ensure proper implementation of the following allocation policy.

A number of other important implementation issues were identified for discussion with interested parties. The guidelines incorporated into this policy document reflect a careful consideration of all the views and advice received throughout the consultation process. In developing the guidelines the most important factor was consistency with this Department's conservation objective. Other factors considered included the extent of sectoral and multi-sectoral support for a particular approach, ability to manage and deliver the approach, costs of the approach and consistency with other national and regional policies.

4.1 Overarching Principles

Allocation Principle 1 - Conservation

Conservation of Pacific salmon stocks is the primary objective and will take precedence in managing the resource -- conservation will not be compromised to achieve salmon allocation targets.

Opportunities to harvest salmon allocations by all user groups will be subject to the primary objective of conservation. To support this conservation objective, salmon will continue to be allocated for stock assessment purposes that are required to identify potential harvest levels. In addition, Fisheries and Oceans Canada will work with all user groups to improve both comprehensiveness and timeliness of catch data. These data are required to ensure that harvest levels are consistent with conservation objectives.

It is recognized that a clear definition of conservation is required to operationalize this element of the allocation policy. To address this need, a separate discussion paper referred to as the Wild Salmon Policy will be released later this year. That document will begin a public dialogue aimed at defining conservation as it applies to wild salmon and identifying how conservation goals and objectives can be achieved in practice.

To support the conservation objective, salmon will continue to be set aside for test fisheries which are required to determine the timing and general health of salmon stocks, and to identify potential harvest levels.

- Test fishing activities will be conducted when they do not interfere with achieving conservation objectives.
- At this priority level, the minimum quantity of harvest needed to provide the required information will be taken in test fisheries.

Allocation Principle 2 - First Nations

After conservation needs are met, First Nations' food, social and ceremonial requirements and treaty obligations to First Nations have first priority in salmon allocation.

First Nations are concerned that the allocation policy will affect the scope of treaty negotiations. The nature and scope of treaties remain to be negotiated and are not defined in this document. The need for certainty and stability in fisheries is one objective of Canada in the treaty process.

Consultations and negotiations with First Nations, inside and outside the treaty process, will continue on matters of salmon allocation.

First Nations Priority

The Aboriginal right to fish for food, social and ceremonial purposes has priority, after conservation, over other uses of the resource. Where a treaty exists, fisheries must be managed in a manner consistent with the provisions of the treaty.

Fish for Food, Social and Ceremonial Purposes

Each year, Fisheries and Oceans Canada staff will consult with First Nations on their needs for food, social and ceremonial fish and matters that may affect their fishing and their preferred fishing methods. Fisheries and Oceans Canada respects that fishing has a cultural component for First Nations.

Treaty Settlements and Resulting Obligations

When the settlement of treaties with First Nations involves salmon resources, the Government of Canada's policy is that the interests of third parties, (including participants in commercial and recreational fisheries, and non-consumptive uses of the resource) will be identified and taken into account in the development of negotiating mandates and the negotiation of treaties.

Where treaties exist, or are negotiated in the future, fisheries will be managed in accordance with the provisions of the treaties. Where commercial fisheries allocations are fully subscribed, and these fisheries must be reduced to provide for treaty allocations, steps will be taken for an appropriate number of commercial licences to be voluntarily retired from the commercial fishery.

At this time, the access of First Nations to the salmon resources under treaty settlements are known specifically for the Nisga'a Treaty and generally understood for the Sechelt Agreement-In-Principle (AIP). These two situations provide a framework for thinking about possible future outcomes. However, they are only two examples and do not limit or represent the full range of possible future arrangements.

Examples of Treaty Settlement Outcomes

1. In the Nisga'a Final Agreement there are two relevant fisheries components affecting current commercial allocations. The first provides for a treaty specified share of the return to Canada for all Nass salmon species. The second allocation component for sockeye and pink salmon only is described in a harvesting agreement and is defined as a percentage of the adjusted Total Allowable Catch. This component is outside the treaty and will operate subject to the same rules as the commercial fishery. The combined total treaty allocation will result in an approximate doubling of the current Nisga'a food, social and ceremonial harvest. Arrangements are being put into place to voluntarily retire commercial licences for the incremental increase required to meet treaty allocations.

2. In the recently initialled Sechelt Agreement–in–Principle, the parties have negotiated a modest increase in the Sechelt's allocation for food, social and ceremonial domestic use only. The provision for receiving economic opportunities from fisheries resources is through the acquisition of regular commercial licences and participation in that fishery.

Allocation Principle 3 - Common Property Resource

Salmon is a common property resource that is managed by the federal government on behalf of all Canadians, both present and future.

Common Property Does Not Imply Open Access

Although Pacific salmon are the common property of all Canadians, the federal government has the constitutional responsibility to decide who has access to those salmon resources and under what conditions. *The Fisheries Act* provides the Minister of Fisheries and Oceans Canada with the legislative authority for the management and regulation of the fishery. It grants the Minister the discretion and the powers necessary to regulate access to the resource, to impose conditions of harvesting and to develop and enforce regulations.

It is under this authority and in light of S35 of the *Constitution Act, 1982*, that priority access for First Nations as stated in Principle 2 is applied.

Access to the Pacific salmon resources by other users presently ranges from limited entry licensing in commercial fisheries to open licensing in recreational fisheries. Both commercial and recreational fisheries are further controlled by species, gear, area and timing restrictions.

Common Property Does Not Imply Equal Access

Although Pacific salmon are the common property of all Canadians, not all Canadians have equal access to the resource. The Constitution of Canada recognizes and affirms the existing aboriginal and treaty rights of the Aboriginal peoples of Canada.

Allocation – A Privilege

In managing the salmon resource for the benefit of all Canadians, access is provided to individuals and groups to harvest the resource in accordance with relevant and appropriate terms and conditions. Access to the resource does not imply ownership of the resource or any portion of the resource. Access to the resource is a privilege granted by the Minister who has the absolute discretion to do so. It is not a right that conveys a proprietary interest to the licence holder.

Catch Monitoring

Achieving specific conservation goals is dependent on accurate and timely catch data. Stakeholders endorse the need for credible data from all sectors on total mortalities associated with encounters, catch and post-release fishing activities. They recognize that high quality catch data are essential to achieve conservation objectives and to implement any allocation policy. To address this problem Fisheries and Oceans Canada has initiated a review of catch reporting and monitoring requirements, with a view to improving the comprehensiveness, timeliness and credibility of salmon catch data.

The Department will work through consultation with representatives of all harvesting sectors to develop basic catch reporting and monitoring standards and target dates for meeting those standards. The standards will:

- identify the best catch data collection system for each fishery - (these may well differ between and within sectors).
- improve the comprehensiveness, timeliness and credibility of catch monitoring while seeking to minimize the associated costs.

Over the longer term, the costs of catch reporting and monitoring will be the responsibility of each harvesting group. This will be discussed with each group but may reflect different arrangements according to the specific needs of the individual harvest group.

Ultimately, access to allocation will be linked to complying with catch reporting and monitoring requirements by the agreed target dates. First Nation's harvest for food, social and ceremonial purposes will continue to be managed in a manner consistent with the Supreme Court of Canada's decision in *R. v. Sparrow*. Efforts will be made to facilitate the involvement of First Nations technical staff in catch monitoring of their fisheries.

4.2 Allocations Between the Recreational and Commercial Sectors

Recreational and commercial salmon fisheries operate very differently. The recreational fishery accounts for a relatively small portion of the total annual harvest of salmon. It is primarily concerned with the quality of the angling experience and with the opportunity to fish throughout the year. In contrast, the commercial fishery, which takes place mainly from July to November, accounts for the vast majority of the total salmon harvest and is primarily concerned with the quantity and value of the catch.

Table 1 summarizes average recreational and commercial salmon catches for the 1991-1994 and 1994-1997 time periods. The majority of the commercial catch is comprised of sockeye, pink and chum while chinook and coho have been the traditional mainstay of the recreational fishery.

Figure 3 illustrates average commercial and recreational catches during 1991-1994 and 1994-1997 time periods. During the period 1991 to 1994, the recreational sector caught about 20% of the combined recreational and commercial catch of chinook and coho. More recently, during the period 1994-1997, the recreational sector catch share of chinook and coho was approximately 17%.

The recreational sector catch of sockeye, pink and chum during the 1991-1994 time period was about 1% of the combined recreational and commercial catch. This remained relatively unchanged during the 1994-1997 time period (Figure 3).

Since the early 1990s, the commercial sector has harvested about 97% of the total salmon taken by the commercial and recreational fisheries (Figure 3).

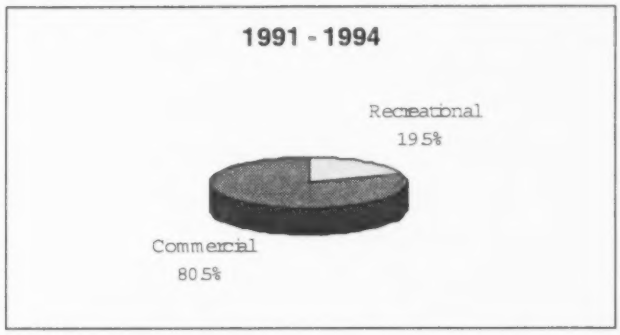
Table 1

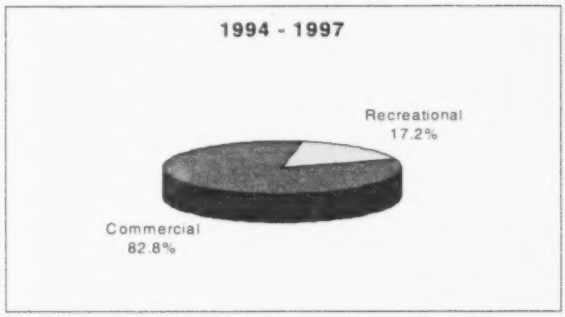
Average Recreational And Commercial Salmon Catches

	Recreational Catch		Commercial Catch		Recreational And Commercial
Chinook	**# of Pieces**	**% of Total**	**# of Pieces**	**% of total**	**Total**
Av. 1991-94	228,274	27%	603,304	73%	831,578
Av. 1994-97	137,549	38%	228,211	62%	365,760
Coho					
Av. 1991-94	575,891	17%	2,725,612	83%	3,301,503
Av. 1994-97	222,243	13%	1,505,595	87%	1,727,837
Sub-Total (Chinook and Coho)					
Av. 1991-94	804,165	19.5%	3,328,916	80.5%	4,133,081
Av. 1994-97	359,792	17.2%	1,733,806	82.8%	2,093,597
Sockeye					
Av. 1991-94	103,619	0.9%	12,016,128	99%	12,119,747
Av. 1994-97	56,765	0.7%	7,980,246	99%	8,037,010
Pink					
Av. 1991-94	158,438	1.3%	11,643,608	99%	11,802,046
Av. 1994-97	96,686	1.5%	6,480,660	99%	6,577,345
Chum					
Av. 1991-94	7,081	0.2%	3,736,714	100%	3,743,795
Av. 1994-97	5,865	0.2%	2,415,376	100%	2,421,242
Sub-Total (Sockeye, Pink and Chum)					
Av. 1991-94	269,138	1.0%	27,396,450	99.0%	27,665,588
Av. 1994-97	159,316	0.9%	16,876,282	99.1%	17,035,597
All Species					
Av. 1991-94	1,073,303	3.4%	30,725,366	96.6%	31,798,669
Av. 1994-97	519,108	2.7%	18,610,088	97.3%	19,129,194

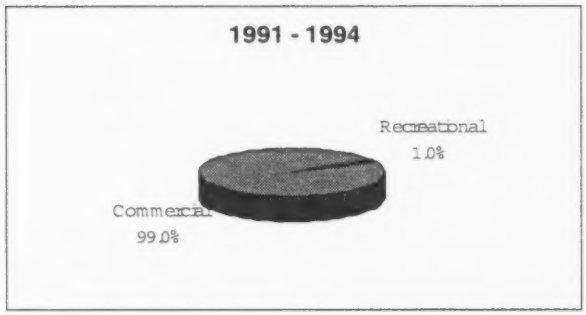
Source: Fisheries And Oceans Canada.

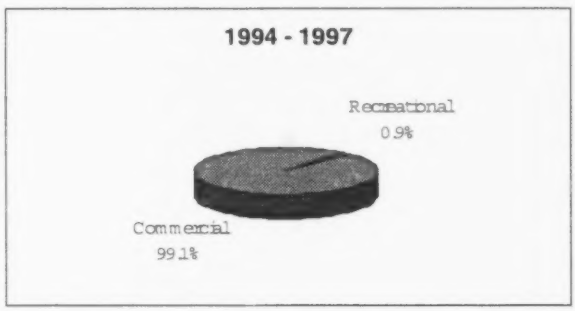
Figure 3
Commercial And Recreational Catches
Average Catch of Chinook and Coho



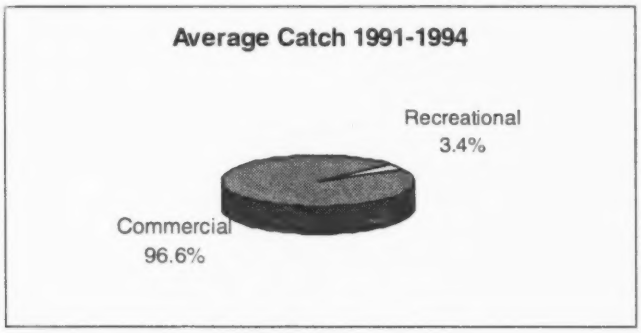


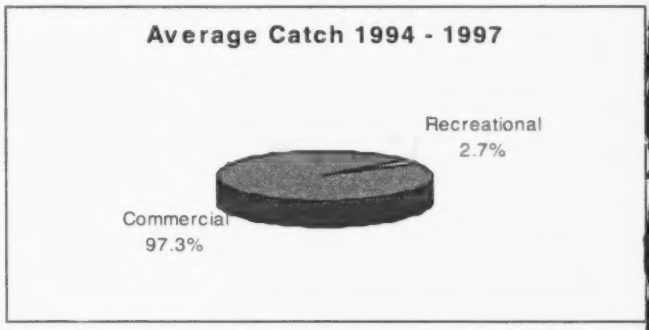
Average Catch of Sockeye, Pink and Chum





Average Catch of All Species





Both the recreational and commercial sectors make a significant contribution to the British Columbia economy. Each generates millions of dollars in revenues, consumer spending, wages, salaries and government revenues. A 1996 federal-provincial study on chinook and coho salmon indicated that the recreational fishery on these species generates more revenues, value and other economic impacts with a lower harvest of salmon than the commercial sector.

The study compared the value of chinook and coho in the two fisheries using two standard economic techniques:

- Economic value analysis measures the net benefits (benefits minus costs) that consumers and producers receive from fish and fishing, based on what they would be willing to spend to fish and the actual costs to the economy.
- Economic impact analysis measures the total economic activity generated by fishing in terms of jobs, income and other common indicators.

The study concluded that although both fisheries would clearly receive significant additional value from having more chinook or coho allocated to them, the value of an extra chinook or coho salmon is greater to the recreational fishery than the commercial fishery. The BC Job Protection Commissioner in 1998 highlighted that regulatory uncertainty for the recreational sector was the number one factor affecting business prospects.[2]

In addition to the value of fish harvested by the commercial fleet and the economic importance of the recreational fishery, both sectors are of significant social and economic importance to numerous communities in British Columbia.

Allocation Principle 4 – Recreational Allocation

After conservation needs are met, and priority access for First Nations as set out in Principle 2 is addressed, recreational anglers will be provided:

- **priority to directed fisheries on chinook and coho salmon; and,**
- **predictable and stable fishing opportunities for sockeye, pink and chum salmon.**

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[2] The Economic Value of Salmon: Chinook and Coho in British Columbia – Discussion Document. Prepared for Canada Department of fisheries & Oceans, BC Ministry of Agriculture, Fisheries & Food, BC Ministry of Environment, Lands & Parks, and BC Ministry of Small Business, Tourism & Culture. Prepared By The ARA Consulting Group Inc. Vancouver, February 1996.

The opportunity to harvest chinook and coho salmon is the mainstay of the recreational fishery. It is also a major contributor to the tourism industry that in recent years has been British Columbia's second largest sector, after forestry. Based on the evidence presented in the previous section, providing a priority allocation for chinook and coho to the recreational sector represents the best economic use of the resource.

Furthermore, it is consistent with recommendations from both Dr. Art May and Mr. Samuel Toy, the independent advisors appointed by the Minister of Fisheries and Oceans Canada to provide advice on intersectoral allocations. This priority to chinook and coho does not suggest exclusive access since directed commercial fisheries will still occur when resource abundance levels allow.

The recreational harvest of sockeye, pink and chum salmon has become increasingly important in some areas. However, the present harvest of these species is currently only about 1 per cent of the combined commercial and recreational harvest. Since sockeye, pink and chum are relatively abundant and only available for harvest during the short period of their spawning migration, a small proportion of these species is more than adequate to sustain reliable and stable angling opportunities well into the future. As a result, the recreational harvest of sockeye, pink and chum salmon will be limited to a maximum annual average of 5 % of the total combined recreational and commercial harvest on a coast-wide basis over the period 1999 to 2005.

Recreational anglers are most concerned with protecting fishing time and the opportunity to fish rather than the explicit amount of fish. In applying the above principle, there is a need to define appropriate daily and annual catch limits and other controls on the recreational fishery. This can ensure that fishing time and the opportunity to fish are protected while avoiding unnecessary adverse impacts on the commercial sector.

Recreational Priority to Chinook and Coho

The recreational priority to directed fisheries on chinook and coho salmon will operate only after conservation needs are met and First Nations priority, as outlined in Principle 2, has been addressed. Implementation of the priority will also:

- take into account that sport and commercial fisheries operate very differently, and

- be consistent with needs of the recreational fishery where fishing time and the opportunity to fish are more important than an explicit amount of fish.

Where conservation goals cannot be met, recreational fisheries for all salmon will be closed. Where abundance is sufficient to meet conservation goals but insufficient to address First Nations needs, recreational access will be restricted to selective fishing only including non-retention of chinook and/or coho salmon as appropriate. Where abundance is greater, directed recreational fisheries will be permitted, however, the recreational limits for these fisheries will be determined by relative abundance. Even in high abundance scenarios, recreational limits will not exceed 2 per day with a possession limit of 4 for chinook salmon and 4 per day with a possession limit of 8 for coho salmon (e.g., in terminal areas or harvest of hatchery-produced salmon).

Recreational Harvest of Sockeye, Pink and Chum

Recreational sockeye, pink and chum fisheries will only be conducted after conservation needs are met and the First Nations priority, as outlined in Principle 2, has been addressed.

The recreational fishery will be managed to provide a stable and predictable opportunity for recreational harvest of sockeye, pink and chum fisheries. Management activities will allow an orderly expansion of the recreational harvest of these species and yet minimize the adverse impacts on the commercial fishery. The recreational harvest of sockeye, pink and chum will be limited to a maximum average of 5% of the combined recreational and commercial harvest of each species over the period 1999 to 2005. This maximum average will be revisited prior to the 2006 fishing season. The Minister may seek advice from the Allocation Board on this element of the allocation policy.

The 5% allocation is a cap (that is, a maximum harvest quantity.) Therefore, sockeye, pink and chum salmon, that is not anticipated to be harvested by the recreational sector in any given year, will be made available to the commercial fishery.

The cap is not intended to apply annually or to a specific stock grouping, but represents an average over the 1999-2005 period for each species. If during the course of this time period (1999-2005), projections show that the 5% limit will be exceeded by the end of the period, subsequent target allocations may be adjusted, and management measures may be taken to ensure that catch levels remain within the overall cap. The Minister may seek advice from the Allocation Board on the need for such measures.

The following definitions will apply:

- Recreational catch will include catch of sockeye, pink and chum salmon in both tidal and non-tidal waters. In the future, release mortalities must also be accounted for. The procedures for estimating this will be developed as part of the catch monitoring initiatives.
- Commercial harvest of sockeye, pink and chum will include catch taken during commercial fisheries, Pilot Sales fisheries and selective fishing experimental fisheries, but will not include any harvest taken under the Excess Salmon to Spawning Requirements (ESSR) policy or test fisheries as described under Principle 1 – "Conservation".

Recreational Catch Limits for Sockeye, Pink and Chum Salmon

Catch limits in the recreational fishery for sockeye, pink and chum salmon will be subject to achieving conservation goals, addressing First Nations priorities and meeting Canada's international obligations. If these priorities are addressed, "typical limits" for sockeye, pink and chum salmon combined will be established as follows:

- Tidal Waters: a daily limit of four salmon with a possession limit of eight salmon;
- Non-Tidal Waters (adults): a daily limit of two adult salmon and a possession limit of four adult salmon;
- Non-Tidal Waters (jacks): a daily limit of four salmon and a possession limit of eight salmon.

If in-season abundance is higher than expected, limits in excess of those defined as "typical" may be considered. However, increased in-season limits will only be authorized in the event that abundance is sufficient to:

- ensure that escapement goals are easily exceeded;
- ensure that First Nations requirements are easily addressed, and;
- ensure no adverse impacts to existing commercial fisheries.

Decreased recreational limits in specific recreational fisheries, unrelated to conservation, First Nations and international priorities and obligations, may also be considered where there is general agreement between commercial and recreational interests.

Allocation Principle 5 – Commercial Allocation

After conservation needs are met, and priority access for First Nations as set out in Principle 2 is addressed:

- **the commercial sector will be allocated at least 95 per cent of combined commercial and recreational harvest of sockeye, pink and chum salmon; and,**
- **the commercial harvest of chinook and coho will occur when abundance permits.**

The harvest of sockeye, pink and chum salmon is the mainstay of the commercial fishery. The commercial industry harvests the vast majority of these species. Special consideration for the commercial sector with respect to these species is appropriate in support of a viable commercial industry.

The commercial harvest of chinook and coho salmon will occur when abundance permits. When harvestable surpluses are high, chinook and coho salmon will be available in directed commercial fisheries. When harvestable surpluses are lower, some chinook and coho may be caught by commercial fisheries on a non-retention basis to allow them to prosecute their directed fisheries on other salmon species. This will be subject to the principles of the selective fishing policy.

The present voluntary salmon licence retirement program represents a significant expenditure of public funds to assist the Pacific commercial fishery to restructure. Licence retirement will significantly improve the financial viability of those who remain in the commercial fishery by substantially and permanently reducing the size of the commercial fishing fleet. At the same time, it will allow for increased recreational fishing opportunities.

Implementing Allocation Principle 5 – Commercial Allocation

Commercial Access to Sockeye, Pink and Chum

The commercial industry historically harvested the vast majority of sockeye, pink and chum salmon. The commercial industry will be allocated at least 95 per cent of combined commercial and recreational harvest of each sockeye, pink and chum salmon species. Up to 5% of the remainder will be available to the recreational fishery in order to allow them predictable and stable fishing opportunities on sockeye, pink and chum. It is unlikely that the recreational fishery will reach this cap in most years. Therefore, any uncaught portion can be harvested by the commercial fishery. This 95% will be broken out by species.

Definitions and methods of accounting for each sector's catch have been outlined under Principle 4 and are not repeated here.

Commercial Access to Chinook and Coho

Directed commercial harvest of chinook and coho salmon can occur when abundance permits. When harvestable surpluses are sufficiently high, chinook and coho salmon will be available in directed commercial fisheries through specific allocations. For directed commercial fisheries on these species, harvestable surpluses must be large enough to:

- meet conservation objectives.
- provide priority for First Nation's for food, social and ceremonial requirements and meet other existing obligations arising through treaty settlements or agreements.
- allow for a directed recreational fishery based on limits of 2 per day and 4 in possession for chinook, and 4 per day and 8 in possession for coho.
- still be available in sufficiently large numbers in order to permit a directed commercial fishery.

4.3 Allocations Within the Commercial Sector

Allocation Principle 6 – Selective Fishing

To encourage selective fishing:

- **a portion of the total available commercial catch will be set aside for existing commercial licence holders to test alternative, more selective harvesting gear and technology; and,**
- **over time, commercial allocations will favour those that can demonstrate their ability to fish selectively.**

Given the mixed stock nature of the Pacific salmon fishery, more selective fishing practices are required in order to maximize the harvest of target species, in particular sockeye, pink and chum, and minimize the by-catch of other species.

Two kinds of selective fishing initiatives are presently being pursued and tested. First, alternative harvesting technologies are being tested. Second, all commercial fleets are required to improve their selectivity by modifying their gear and fishing methods.

For a two year period (1999/2000), up to 5% of the total available commercial catch will be available to commercial licence holders who wish to experiment with alternative fishing gear and technology such as salmon traps, fish wheels and tooth tangle nets. The results of these selective fishing trials will be reviewed and evaluated. At the end of the two-year period, the adequacy of the allocation for experimental trials will be assessed and revised if necessary. Initial longer-term allocations to alternative gear and technology will also be considered at that time.

In addition to experiments with alternative fishing gear and technology, all participants in the commercial sector are required to adopt more selective harvesting practices. Over time, allocations by gear (gillnet, seine and troll) may be adjusted to favour those that can demonstrate their ability to fish selectively.

A selective fishing policy requires further detailed discussions with stakeholders before its full implementation. A separate paper has been issued to facilitate this discussion on selective fishing by all sectors. However, some initial guidelines that pertain to selective fishing by the commercial sector are discussed below.

Over the longer term, target allocations for seine, gillnet and troll gear will reflect the relative ability of each gear type to harvest selectively through modification of existing gear and fishing operations. Where an existing gear type cannot achieve its initial target allocation because of conservation concerns, this target allocation may be adjusted downwards over the longer term. This reduced allocation may be used to facilitate the introduction of alternative more selective gear and technology to the commercial fishery or be re-allocated to an existing, more selective gear type. An allocation board (see section 5) would be useful in this context – by providing advice with respect to these matters and appropriate steps to facilitate the necessary changes in allocation in the least disruptive manner.

Implementing Allocation Principle 6 – Selective Fishing

All participants in the commercial salmon fisheries are required to adopt harvesting methods and practices that are more selective than those currently used. A separate discussion paper has been released on Selective Fishing which lays out a policy framework for moving to full implementation of selective fishing practices.

There are two important links between selective fishing program and the allocation framework. The first issue is short-term and focuses on allocation issues related to the experimental component of the program. The second issue is longer term and is concerned with a gear's ability to fish selectively over time. Each of these is discussed below.

Short Term - Experimental (5% set aside for testing gear and technologies 1999-2000)

For the purposes of implementing this component of the program the 5% will be applied to each species, but will not be broken down further. This will provide maximum flexibility in selecting experimental projects to meet the priority objectives. Access to the 5% experimental allocation will be limited to existing commercial salmon licence holders (salmon "A" licence holders, "N" (Northern Native Fishing Corporation) and "F " communal licences). That is, a new selective commercial user group will not be established which is separate from existing participants, nor will new participants in the fishery be permitted at the expense of current licence holders.

Selective fishing opportunities within a specific licence area will involve commercial fishers licensed for that area. For example, only a gillnetter, licensed for Area D may participate in the selective gillnet fisheries in that licence area.

Experimental selective fishing projects will be adjusted to reflect in-season changes in Total Allowable Catch (T.A.C.). Selective fishing experiments will have priority over existing commercial fisheries but will not have priority over obligations to First Nations for food, social and ceremonial purposes or the recreational fishery.

At the end of the two-year period (1999-2000), the results of these selective fishing experiments will be reviewed and evaluated and the adequacy of the allocation for experiments will be assessed and revised if necessary.

Decisions regarding the selection of proposals to test selective fishing methods will balance, where possible, the scientific need for testing a wide range of existing and alternative fishing gear, methods and technologies that are potentially most useful to the future selectivity of the fishery with a distribution of those tests across species, areas and gears.

Long Term – Ability to Fish Selectively

If harvesters are unable to fish selectively, salmon stocks may be unavailable to them, for fear of potentially damaging weaker co-migrating species or stocks. This means that an inability to fish selectively will lead to a reduction in fishing opportunities, despite an available surplus of fish.

A reduction in fishing opportunities means that licence holders in a particular licence area will not be able to harvest their target allocation.

Over the longer term, target allocations for seine, gillnet and troll gear will be adjusted to reflect the relative ability of each gear type to harvest selectively through modification of existing gear and fishing operations.

Allocation Principle 7 – Gear Allocations

Target allocations for the commercial sector will be:

- **established on a coast-wide basis by gear, with the catch of all species expressed on a sockeye equivalent basis; and,**
- **subject to adjustments over time to account for conservation needs, including selective fishing, and possible changes resulting from the Voluntary Salmon Licence Retirement Program.**

Initial coast-wide target allocations of the total allowable catch will be 34% gillnet, 42 % seine and 24% troll, consistent with the recommendations of Mr. Stephen Kelleher. These coast-wide target allocations will be adjusted over time to reflect the conservation needs of the resource, including the need to achieve more selective fishing, and possible changes in the gear mix in the commercial fishery.

Annual coast-wide target allocations by gear type will be used to guide fisheries management. However, no guarantees can be offered that target allocations will be achieved in any given year or over any given period of years and no compensation will be provided where these target shares are not achieved. The achievement of these targets will depend upon the conservation needs of the resource that often necessitates in-season management changes.

For information and planning purposes, coast-wide target allocations by gear type will be translated, on an annual basis, into anticipated licence area allocations by gear and species. Over time, there will be an attempt to move to more clearly defined geographical area allocations.

The management principles being applied to achieve conservation goals will tend to reduce harvest rates and harvest levels in more seaward fishing areas where uncertainties in run size and survival rates are greatest. This transition to harvesting in more terminal areas will be reflected over time in these anticipated local allocations. In addition, flexibility is needed to make necessary in-season adjustments to the mix and quantity of species available in a given licence area. In cases of conflict between coast-wide and area allocations, coast-wide allocations will be the primary management target, subject to conservation concerns and the priority that users have for accessing the salmon resources.

Implementing Allocation Principle 7 – Allocations by Gear

Target Allocations by Gear

Annual gillnet, troll and seine target allocations will represent a coast-wide target share of the total allowable catch expressed in Sockeye Equivalents (S.E.'s) based on the previous year's average price by species.

These annual coast-wide target shares will be translated into anticipated licence area target allocations. These anticipated licence area target allocations will be used to guide the development of annual commercial fishing plans. Fishing plan development and implementation will be guided by the following principles:

- Steps will be taken to reduce harvest rates and harvest levels in more seaward fishing areas where uncertainties in run size, stock composition and survival rates are greatest.

- Flexibility is needed to respond quickly to unexpected low returns of the resource and to make necessary in-season adjustments to the quantity of species available in a given licence area.

- In implementing the annual fishing plan for a particular species or stock:
  - Reasonable efforts will be made to ensure that each licence area harvests its target allocation of each species.
  - If a specific licence area is unable to harvest its target allocation of a particular species or stock, efforts will be made to deliver that foregone target allocation to the same gear in another licence area. This approach will help each gear harvest its coastal target allocations by gear.
  - If the second licence area cannot harvest that foregone catch – efforts will be made to redistribute the foregone catch among all gear types in a proportional manner.

- Commercial licence holders will only be permitted to fish in their licensed area and where possible should focus on the stocks originating from that area. Over time this could lead to a transition from coastal target allocations to separate allocation arrangements for the north and south coasts or more specific areas.

Adjustments to Target Allocations

The target allocations are not fixed entitlements to the resource and are subject to change over time. These changes will reflect the conservation needs of the resource, including the need for more selective fishing, and possible changes in the mix of gear types in the fishery.

With respect to changes in the mix of gear types in the fishery, the Pacific Fisheries Adjustment and Restructuring Program was announced June 19, 1998. One component of this program was a voluntary salmon licence retirement program. To date, two rounds of voluntary licence retirement have taken place resulting in a total retirement of 743 salmon licences, leaving a total of 2,896 (including A, N, and F licences) and 2,559 licences eligible for future licence retirement (excluding non-eligible N and F licences).

The retirements from both rounds of the 1998 program represent a reduction across all gear types of 27% of eligible seine licences, 20% of eligible gillnet licences, and 25% of eligible troll licences.

Initial coast-wide target allocations of 34% gillnet, 24% troll and 42% seine as recommended by Mr. Kelleher will be adjusted at this time to reflect the number and mix of salmon licences remaining in the fisheries.

After the third round of licence retirement, adjustments will be made to allocations. The procedure for adjusting target allocations will be based on maintaining the relative catch per licence within each gear constant. This is in keeping with the recommendations of a broad consortium of commercial organizations representing the majority of commercial stakeholders as a fair way to share the benefits of a publicly-funded licence retirement program. This means that, in spite of a disproportionate number of licences retiring in a gear, the average catch per licence increases by the same percentage as other gears. Thus benefits are distributed proportionately across all gears. The percentage change in average catch per licence, before and after licence retirement, will be the same for all licence holders.

Example of Approach for Adjusting Target Allocations by Gear

Prior to Licence Retirement	Gillnet	Seine	Troll	Total
# of Licences	2,142	494	1,003	3,639
Kelleher Allocations	34%	42%	24%	100%
Hypothetical Catch (SE's)*	3,400,000	4,200,000	2,400,000	10,000,000
Catch per Licence	1,587	8,502	2,393	Sum of G,S&T 12,482
Relative Catch per Licence***	12.7%	68.1%	19.2%	100%

After Licence Retirement**	Gillnet	Seine	Troll	Total
# of Licences**	1,782	360	754	2,896
Relative Catch per Licence***	12.7%	68.1%	19.2%	100%
Catch per Licence	2,065	11,044	3,109	Sum of G,S&T 16,218
Hypothetical Catch (SE's)	3,680,000	3,976,000	2,344,000	10,000,000
Revised Target Allocation	36.8%	39.8%	23.4%	100%

* These are for illustrative purposes only

** This example is based on the total number of salmon licences remaining after Round 2 of Pacific Fisheries Restructuring and Adjustment Program

*** Relative catch is calculated as follows: relative catch of gillnet = catch per licence (1,587) divided by the sum of the average catches for each gear (gillnet 1,587 + seine 8,502 + troll 2,393 = 12,482) = 12.7%

Adjusting for the reduced number of licences to date translates into revised target allocations by gear of approximately 37% gillnet (+3%), 40% seine (-2%) and 23% troll (-1%). Further adjustments to the target allocations will be made using the same procedures, subsequent to the third round of the licence retirement program. These further revised target allocations will be announced prior to the year 2000 fishing season.

Thereafter, beginning in the 2001 fishing season, the Allocation Board will be asked to make recommendations on further changes to reflect the conservation needs of the resource, including the need to achieve more selective fishing, as well as possible further changes in the gear mix in the commercial fishery.

Target Allocations Are Not Guaranteed

In spite of carefully developed fishing plans that are designed to provide opportunities for each gear to harvest a target allocation, problems may arise. Therefore, no guarantees can be offered that target allocations will be achieved in any given year or over any given period of years. The achievement of these targets will depend upon the ability to fish selectively and the conservation needs of the resource, which often necessitate in-season management changes.

No compensation will be provided in the event that a target allocation is not achieved. Specifically, "catch up/make up" adjustments to future target allocations will not be considered in the event that a fleet does not achieve its target allocation. Catch up/make up provisions would seriously complicate salmon fishery management and potentially conflict with conservation goals and selective fishing priorities. Many of the factors that will affect whether or not a gear can harvest its target allocation are long term in nature - for example, a permanent change in salmon abundance, location of harvest or inability to fish selectively. Differentiating these long-term factors from short-term factors such as a temporary change in run size is both difficult and contentious. Even where consensus can be achieved, the resulting revised allocations may not be deliverable in subsequent years. As a result, any commitment to catch up/make up would lead to expectations that cannot reasonably be met.

Planning Schedule

A multi-year and annual planning schedule is required to improve the timeliness of decisions made with respect to the commercial salmon fishery. Annual dates need to be set for accomplishing the following activities:

- Review previous year's harvest and allocation results;
- Identification and resolution of disputes;
- Presentation of conservation objectives and expected catches; and,
- Target allocations by gear will be translated into target allocations by specie and individual licence area to guide the development of the annual salmon fishing plans.

To accomplish this staff will work with First Nations, commercial and recreational representatives with a view to adapting such a schedule of timelines for implementation prior to the year 2001 salmon season.

4.4 AFS Pilot Sales Program and Excess Salmon to Spawning Requirements

Pilot Sales Program

Currently, the sale of salmon by First Nations is allowed under the AFS Pilot Sales Program in three areas: the Skeena River, the Alberni Inlet (Somass River) and the Lower Fraser River. These are arrangements negotiated as part of the Aboriginal Fisheries Strategy (AFS).

In considering the status of the sales component of pilot sales fisheries agreements, it is important to note that the circumstances and conditions of the AFS Pilot Sales Program fisheries agreements vary greatly among the three areas. For example, in the Skeena River, fisheries are managed in accordance with the principles of the Excess Salmon to Spawning Requirements (ESSR) policy. In other cases, food requirements may be inseparable from the sales component of an agreement.

Implementing Changes In Pilot Sales Program

In consultation with First Nations, the sales components of pilot sale fisheries will be accorded the same priority as the commercial harvest. This is already accomplished in the Somass River, for example, through a harvest sharing plan developed in consultation with all sectors and the affected First Nations.

Fisheries and Oceans Canada will continue to consult with First Nations with the intent of implementing operational regimes in other areas which will provide the Pilot sales fisheries the same priority as commercial fisheries.

Excess Salmon to Spawning Requirements (ESSR)

Excess Salmon to Spawning Requirements (ESSR) fisheries occur when salmon stocks return to a system after passing through the various fisheries and are at a level in excess of their required habitat or hatchery spawning capacity.

The existing ESSR policy indicates salmon fisheries are managed to minimize surpluses to both naturally spawning stocks and returns to federal enhancement facilities. The first opportunity to access any surpluses identified after outstanding First Nations' need for food, social and ceremonial fish requirements have been addressed, is provided to First Nations who live in the area. These fish may be sold subject to certain harvest, stock assessment and reporting requirements. If sold, First Nations direct all revenues from sale of fish towards the cost of fisheries activities such as enhancement, stock restoration, habitat restoration, fishery or habitat management, or research, as agreed to by Fisheries and Oceans Canada. If the First Nations decline the offer to harvest the identified surpluses, the fish will be offered for sale through public tender.

5.0 ROLE OF AN ALLOCATION BOARD

Advisors have consistently recommended the establishment of an impartial board to deal with salmon allocation issues in an open and transparent manner. Consistent with these recommendations, an impartial board with coast-wide responsibilities will be established to advise and assist the Minister in implementing this salmon allocation policy. For reasons of efficiency and consistency, the mandate of the Board will not be limited to the salmon fishery but will extend to all species and the Board will be assigned a role in developing licensing rules and advising on individual licence appeals.

Various approaches to such a Board have been proposed in the reports of special advisors to the Minister on the allocation issue. These include a legislated tribunal making binding decisions (Art May); an appointed facilitator to resolve disputes (Stephen Kelleher), and; an independent tribunal to resolve inter-area and inter-sectoral issues (Samuel Toy). After considering these options, a number of goals and an overview of the proposed board are provided at this time for the information and for the consideration of stakeholders.

A separate discussion paper will be released shortly which will outline proposals for further changes to the advisory structure in the salmon fishery. This paper will clarify the proposed linkages between the Allocation and Licensing Board and other advisory processes in the fishery, and facilitate further discussion with stakeholders on the specific roles of the Board and potential selection criteria for its membership. Subsequent to this discussion, it is anticipated that the Board will be established in the calendar year 2000.

Goals for a Reformed Allocation and Licensing Process

The Department's goals for a reformed allocation and licensing process are really a subset of its broader goals for the management of the fishery. These goals include:

Openness and transparency: Those affected by allocation and licensing decisions should see how decisions are taken, by whom they are taken and who contributed to or influenced the decisions.

Fairness: Allocation and licensing decisions must not only be fair but be seen to be fair.

Public participation in the key decisions on the management of a public resource that provides benefits vital to the well being of individuals and communities.

Economical and effective decision-making that focuses on the right issues, brings the necessary views to the table and provides for timely and definitive resolution of issues.

Finally, the reformed allocation and licensing process must also support meeting the Crown's fiduciary obligations to aboriginal people; the department's continuing goals of resource conservation, industry self-management and localised decision-making, and; the government's ability to make and meet international commitments.

Overview of the Proposed Board

An expert and impartial board, that functions under ministerial direction. The Board would take policy direction from the Minister and provide advice to the Minister on the implementation of established allocation policy (both present and future) and, upon request from the Minister, advice on changes to licensing rules.

A coast-wide advisory mandate on domestic allocation, covering both commercial and recreational fisheries. First Nations food, social and ceremonial harvesting, rights-based fisheries and treaty obligations would be excluded from the board's mandate. Similarly, Canada's international obligations would be excluded from the board's mandate.

A broad based advisory mandate on licensing rules.

A public process. Public hearings would be held to which all affected parties would have access. There would be full public disclosure, subject to laws respecting the protection of privacy, of the advice tendered to the Minister.

A focus on longer term allocation issues. To the extent possible, annual allocation decisions would be resolved within the integrated fisheries management planning process at an operational level.

Eventual replacement of the existing Pacific Region Licence Appeal Board (PRLAB). The existing PRLAB hears appeals from individual fishermen for special consideration in the implementation and application of approved commercial licensing policy and advises the Minister on these matters. As the new Allocation and Licensing Board develops expertise in licensing rules, and the rationale underlying them, over time, it should assume the role of the PRLAB.

Specific functions of the board with respect to the salmon fishery could include:

- Recommend appropriate revisions to commercial fleet target allocations to reflect the selective fishing priority and appropriate steps achieve the revised target allocations;
- Recommend appropriate revisions to commercial fleet target allocations to account for further changes in fleet composition and distribution;
- Recommend commercial licensing rules, on request from the Minister; for example, the Board could take on the role previously played by departmental officials in developing and proposing the detailed rules for area licensing, single gear licensing and stacking;
- Recommend on requests from individual licensees for special consideration under the established licensing rules;
- Recommend the number and mix of licences for retirement to account for increased First Nations pilot sales or treaty allocations.

The Board may also be assigned a role in:

- Conducting post-season review of the fishery, to determine whether established allocation priorities and commercial target allocations have been achieved;
- Leading public reviews of bi-lateral allocative arrangements in the salmon fishery between the Department and user groups including "pilot sales" or other proposed "partnering" type arrangements.